

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

<div>In re:</div> <div>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</div> <div>as representative of</div> <div>THE COMMONWEALTH OF PUERTO RICO, <i>et al</i></div> <div>Debtors</div>	<div>PROMESA Title III</div> <div>No. 17 BK 3283-LTS</div> <div>Re: ECF No. 16287, 16797</div> <div>(Jointly Administered)</div>
<div>In re:</div> <div>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</div> <div>as representative of</div> <div>THE COMMONWEALTH OF PUERTO RICO, <i>et al</i></div> <div>Debtors</div>	<div>PROMESA Title III</div> <div>No. 17 BK 3283-LTS</div> <div>This Stipulation relates only to the Commonwealth of Puerto Rico</div>

**URGENT MOTION REQUESTING STAY OF STATE PROCEEDINGS FOR LACK
COMPLIANCE WITH MEMORANDUM ORDER
DOCKET 16797**

Now Comes Corporación Marcaribe Investment and respectfully requests that this Honorable Court issues a stay order of state proceedings for failure to comply with the Memorandum Order in Docket 16797. As reasons, Corporación Marcaribe Investment states as follows:

1. On May 25, 2021, this Honorable Court issued “Memorandum Order” regarding the applicability of the automatic stay per the 2019 Stipulation, and the right to appeal the

Commonwealth Court's judgment. In summary the controversy was resolved in the last paragraph of page 5 of 7 of such "Memorandum Order", and stated the following:

Marcaribe has not demonstrated that it would suffer any prejudice from the Commonwealth's proposed modification of the automatic stay. If Marcaribe is correct that the automatic stay did not prohibit the Appeal because of the 2019 Stipulation, then its commencement of the Appeal was timely to the extent it complied with applicable Commonwealth law and rules. If the Commonwealth is correct that the Appeal was premature, then "section 108(c)(2) of the Bankruptcy Code, 11U.S.C. § 108(c)(2), effectively provides Marcaribe with thirty days from the date of this Memorandum Order to pursue an Appeal of the Commonwealth Court's judgment. See Bunch v. Hoffinger Indus. (In re Hoffinger Indus., Inc.) 329 F. 948, 953 (8th Cir. 2003) (holding that commencing an appeal in state court "is encompassed within the plain meaning of § 108(c), and therefore . . . the deadline to file the notice of appeal is extended by § 108(c)(2) until at least thirty days after notice of the stay's termination or expiration"); see also Barraford v. T & N Ltd., 778 F.3d 258, 260 (1st Cir. 2015) (explaining that section 108(c)(2) "delays the expiration of any limitations period that would otherwise end during the duration of the automatic stay until thirty days have passed after notice of termination of the stay")". See paragraph

2. The Memorandum Order's conclusion stated the following:

"For the foregoing reasons, the Court hereby modifies the automatic stay in these Title III cases so as to allow Marcaribe's Appeal to proceed to judgment before the Puerto Rico Court of Appeals and the Supreme Court of Puerto Rico, provided, however, that the automatic stay will continue to apply in all other respects to the Appeal, including, but not limited to, the execution and enforcement of any judgment and any claims for money damages and provisional remedies against the Commonwealth or any other Title III debtor." (Emphasis added)

3. To this date the Puerto Rico Appellate Court has not adjudicated 'the premature filing controversy' of the appeal. In a precautionary manner, on June 24, 2021, Marcaribe filed an appeal, because this Honorable Court set May 25, 2021 as the start of the 30 days to file an

appeal by virtue of section 108(c)(2) of the Bankruptcy Code, 11 U.S.C. § 108(c)(2)¹. If he appeal had not been filed on or before June 24, 2021, and later the Puerto Rico Appellate Court declares premature the original appeal, Marcaribe would have lost the opportunity to appeal.

4. On July 23, 2021, the Commonwealth notified Marcaribe's attorneys at the state level of a motion requesting dismissal of the new appeal for lack of jurisdiction, alleging that this Honorable Court did not modified the automatic stay to allow Marcaribe to file the appeal. The aforementioned motion to dismiss failed to recognize that this Honorable Court allowed Marcaribe to file the appeal pending the resolution of the premature filling controversy.

5. Marcaribe requests this Court issues a stay order of state proceedings until this Honorable Court adjudicates the new controversy of the automatic stay which arose after the Commonwealth notified the motion to dismiss.

WHEREFORE, Marcaribe requests from this Honorable Court to issue a stay order of state proceedings until the adjudication of this new controversy of the automatic stay and for any other request deemed necessary and proper.

Dated: July 28, 2021

RESPECTFULLY SUBMITTED by Debtor, through Counsel
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¹ See last Paragraph of page 5 of 7 of the "Memorandum Order"

CERTIFICATE OF SERVICE

I, Carmenelisa Perez-Kudzma, hereby state that a copy of this Response was served upon all ECF participants including the Commonwealth of Puerto Rico on July 28, 2021.

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